IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 16 of 1990

The Commissioner of Income Tax ... Applicant.

vs.

Shri Kashmir Ram Singh ..... Respondent

Mr. Ashok Kotangale, Sr. Counsel
i/b. K. C. Sidhwa for Applicant.
Ms. Asifa Khan for Respondent.

CORAM: V**. C. DAGA AND A.S. AGUIAR JJ.**

Date: 14th July, 2005.

P. C.:

1. By this reference under section 256 (1) of the Income Tax Act , 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this court:

> "Whether on the facts and circumstances of the case and in law, the Tribunal was justified in law in holding that the assessment made on 18.9.1980 was barred by limitation and hence bad?

2. The question arises out of the order passed by the Tribunal dated 4.8.1982 in I.T.A. No. 1425 (Bom)/ 1981 for the Assessment Year 1972-73. The above question can hardly be said to be a question of law. The Tribunal has taken into consideration different factual dates and has reached to the conclusion that the assessment made for the Assessment Year 1980-81 is barred by law of limitation. Even if the dates are calculated on the basis of the 2nd return , in that event the assessment for the year 1980-81 is also barred by limitation. The matter needs to be considered by the first date of the return, i.e., from August, 1972 , as the return filed under the signature of the power of attorney holder is a perfectly valid return. If the limitation calculated is based on the calculation of the date of first return, undisputedly the assessment made during the Assessment Year 1980-81 is barred by limitation. As a matter of fact the adjudication of the issue turns ont eh factual aspect of the matter.

3. In this view of the matter no question of law is involved. Hence the reference is returned unanswered. Reference stands disposed of with no order as to costs.

(V. C. DAGA J.)

(A. S. AGUIAR J.)

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